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Clerk of the Trial Courts

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ROBERT MITCHELL,

Plaintiff,

v.

**SALVATION ARMY, ALASKA
DIVISION,**

Defendant.

Case No.: 3AN-105127C

COMPLAINT: CIVIL SEX ABUSE

JURY TRIAL REQUESTED

**NOT SUBJECT TO MANDATORY
ARBITRATION**

**(Amount in Controversy Exceeds
\$50,000)**

COMPLAINT

Plaintiff Robert Mitchell, by and through counsel Randall Vogt, PC, admitted *pro hac vice*, and Cooke Roosa, LLC, for his action against Defendant, alleges as follows:

GENERAL ALLEGATIONS

1. Robert Mitchell, at the time of the wrongful conduct described herein, resided in the vicinity of Palmer, Alaska. Because the events described in this Complaint are of a personal and sensitive nature, and occurred when he was a minor, Plaintiff chooses to identify himself by the pseudonym of "Robert Mitchell" in the public documents filed in this case.

2. Paul Cardew Fanning ("Fanning") was, at all material times, a Divisional Youth Pastor assigned by Defendant Salvation Army to serve in the State of Alaska. He is the functional equivalent of a clergyman in the Salvation Army Church and, at all material times, held the title of "Captain," as well as Divisional Youth Pastor.

1 3. Defendant Salvation Army Church, Alaska Division ("Salvation Army"),
2 was and is a corporation licensed by and doing business in the state of Alaska as a
3 nonprofit business entity, religious in nature, which is authorized to do business at 209
4 W. Evergreen, Palmer, AK, 99645. Plaintiff believes, and hereby alleges, that the
5 present entity of the Salvation Army is substantially the same entity as existed at the
6 time of the incident, and has assumed and remains liable for all relevant liabilities, debts
7 and assets.

8 4. Defendant Paul Fanning was born in August 1954, and is presently a
9 resident and domiciliary of Umatilla County in the State of Oregon, insofar as he is
10 serving a sentence in the Eastern Oregon Department of Corrections. He was, at all
11 material times, an employee of Defendant Salvation Army, working within the scope of
12 his employment.

13 5. Plaintiff was born May 30, 1982 in Fairbanks, Alaska, and has resided in
14 Alaska throughout his life. When Plaintiff was about 13 years old, he and his family
15 began attending Defendant Salvation Army Church in Palmer, Alaska.

16 FIRST CLAIM FOR RELIEF – SEXUAL ABUSE OF A MINOR

17 6. Plaintiff re-alleges and hereby incorporates by reference each and every
18 allegation set forth above as though fully set forth herein.

19 7. Fanning, while serving the interests of Defendant Salvation Army, became
20 Plaintiff's spiritual counselor and confidant, and spent a great deal of time "grooming"
21 Plaintiff in preparation for sexual contact.

22 8. When Plaintiff was approximately 15 years of age, Fanning, while acting
23 within the scope and course of his employment, sexually assaulted and abused Plaintiff
24 at a location in Anchorage, Alaska. The matter was not reported to the police, but

1 Plaintiff broke off further contact with Fanning and Defendant Salvation Army Church.
2 Plaintiff made every effort to purge the memory of the sexual assault from his mind, and
3 to, as much as possible, forget about the incident.

4 9. Plaintiff did not forget about the incident, but did not realize he had
5 suffered psychological damage from the sexual abuse alleged above, and further, did
6 not realize the causal connection between the psychological damage he had suffered
7 and the act of Defendant until a day within approximately one year of filing this litigation.
8 This case has, therefore, been timely filed under the special statute of limitations set
9 forth in AS 09.10.065.

10 10. As a direct and proximate result of the sexual harassment and felony
11 sexual abuse of a minor described in the preceding paragraphs, Robert Mitchell
12 suffered great past and future injury and harm including, but not limited to: great pain of
13 mind and body, shock, severe emotional distress, great mental anguish,
14 embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life,
15 spiritual theft, diminishment of faith in the Church, loss of social interaction with others in
16 the community, lack of trust in clergymen, and has also sustained loss of earnings and
17 earning capacity; and has incurred and will in the future incur expenses for medical and
18 psychological treatment, therapy, and counseling, and other economic and non-
19 economic injury, all to his damage in an amount in excess of \$100,000.00, the exact
20 amount to be proven at trial.

21 SECOND CLAIM FOR RELIEF – RESPONDEAT SUPERIOR

22 11. Plaintiff re-alleges and incorporates by reference herein each and every
23 allegation set forth above as though fully set forth herein. Plaintiff further alleges that, at
24 all times material herein, that Fanning was acting as an agent, servant, and employee of

1 Defendant Salvation Army. Therefore, Defendant Salvation Army is vicariously liable for
2 each and every act of Fanning alleged herein, and all injuries and damages caused
3 thereby or resulting therefrom.

4 THIRD CLAIM FOR RELIEF – AIDED IN AGENCY

5 12. Plaintiff re-alleges and incorporates by reference herein each and every
6 allegation contained herein above as though fully set forth herein. Fanning was aided in
7 the commission of acts injurious to Plaintiff by his agency relationship with Defendant
8 Salvation Army Church. Accordingly, Defendant is liable to the plaintiff for each and
9 every act of Fanning alleged herein, and all injuries and damages caused thereby or
10 resulting therefrom.

11 FOURTH CLAIM FOR RELIEF – NEGLIGENT RETENTION AND SUPERVISION

12 13. Plaintiff re-alleges and incorporates by reference herein each and every
13 allegation contained herein above as though fully set forth herein. Plaintiff alleges that,
14 as a religious and charitable order and spiritually based organization, Defendant agreed
15 to and did undertake to provide for the supervision, care and physical safety of the
16 plaintiff. Defendant, therefore, had a duty to use reasonable care in supervising
17 Fanning, and to ensure that Fanning was not a threat to any minors.

18 14. Plaintiff further alleges that, as a direct and proximate result of the acts
19 alleged above, Defendant's duty to use reasonable care in supervising Fanning was
20 breached.

21 FIFTH CLAIM FOR RELIEF – PUNITIVE DAMAGES

22 15. Plaintiff re-alleges and incorporates by reference herein each and every
23 allegation contained herein above as though fully set forth herein, and further alleges
24 that the conduct of Defendant, as described in this Complaint, was willful and wanton

1 misconduct, grossly negligent, illegal, outrageous and malicious behavior, and conduct
2 which showed a reckless indifference to the interests and well-being of minor children;
3 therefore, Plaintiff should be awarded punitive damages against the defendant.

4 DAMAGES

5 16. As a direct result of his sexual abuse and sexual exploitation by Paul
6 Cardew Fanning, and of the illegal, negligent, intentional, conspiratorial, tortuous,
7 fraudulent, and deceitful acts of Defendant Salvation Army Church, Robert Mitchell
8 suffered great past and future injury and harm including, but not limited to: great pain of
9 mind and body, shock, severe emotional distress, great mental anguish,
10 embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life,
11 spiritual theft, diminishment of faith in clergymen and the Church, loss of social
12 interaction with others in the community, lack of trust in clergymen, and has also
13 sustained loss of earnings and earning capacity; and has incurred and will in the future
14 incur expenses for medical and psychological treatment, therapy, and counseling, and
15 other economic and non-economic injury, all to his damage in an amount in excess of
16 \$100,000.00, the exact amount to be proven at trial.

17 WHEREFORE, Plaintiff prays for judgment as follows:

18 A. General and compensatory damages awarded against Defendant
19 Salvation Army Church on all claims in amounts to be proven at trial, but which, in any
20 event, are greater than \$100,000.00;

21 B. An award of punitive damages against the defendant;

22 C. An award of prejudgment interest, costs and attorney's fees including an
23 award of full reasonable attorney's fees under A.S. 09.60.070; and

24 D. For such other and further relief as the Court deems just and proper.

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2 Dated at Anchorage, Alaska this 9th day of June 2010.
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